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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/573,952

07/24/2008

Fabienne Radermacher

31223-00117 (F-886 US)

1753

25264 7590 02/02/2010

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EXAMINER

MIGGINS, MICHAEL C

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

02/02/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/573,952	Applicant(s) RADERMACHER, FABIENNE	
	Examiner Michael C. Miggins	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-27 is/are pending in the application.
- 4a) Of the above claim(s) 8-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of group II, claims 22-27 in the reply filed on 11/20/09 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22-27 rejected under 35 U.S.C. 103(a) as being unpatentable over Honda et al. (US 6545096) in view of Williams (US 4332122).

Claims 22-27 are written as product by process claims as such the patentability is based on the product and not the process, limitations such as "blow molding", "introducing" and "sealing" (claim 22) are given little to no patentable weight because method limitations are not germane to the patentability of a product in a product claim (MPEP 2113).

Honda discloses a sterilizable container comprising a liquid fill sealed pouch (column 1, lines 14-23, column 4, lines 37-58) made from a metallocene catalyzed ethylene polymer having a density with the range 0.928-0.942 g/cm³, wherein said

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metallocene catalyzed ethylene polymer is a copolymer of ethylene and a C₃-C₈ alpha olefin copolymer, wherein said ethylene polymer is a copolymer of ethylene and 1-hexene (column 3, lines 12-34).

Honda fails to disclose that the pouch retains its integrity at a sterilization temperature of 118 degrees C.

Williams discloses that the pouch retains its integrity at a sterilization temperature of 118 degrees C (column 6, lines 1-20) for the purpose of providing improved sterilization and a bag that can resist damage under autoclave conditions (column 1, lines 10-20). Both references are drawn to blood bags.

The combined teachings of Honda and Williams disclose the claimed invention except for the recited transparency and low haze recited in claims 23-25. However, Honda discloses that excellent transparency is desired (column 1, lines 14-24, Table 2). Thus one of ordinary skill in the art would have recognized that the transparency and haze would be readily determined through routine experimentation depending on the desired end results absent some showing of unexpected results. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided applicant's transparency and haze in order to provide improved bag clarity and transparency, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges or an optimum value of a result effective variable involves only routine skill in the art. See MPEP 2144.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael C. Miggins/
Primary Examiner, Art Unit 1794

MCM
February 1, 2010